

469-000-339 ADDITIONAL CASE PROCESSING INFORMATION (formerly boxed text)

**1-008 Application Processing:**

1-008.01 – Request

Withdrawal of an application does not negate deprivation of resources (see 469 NAC 2-009.10).

1-008.02 – Application

An agent acting on the behalf of a medical provider must have written authorization from the client.

If the worker is aware that a client is in a specified living arrangement when s/he applies for assistance, the worker will notify the agency.

1-008.03 – Notice of Finding

If the client resides in a nursing home, send a copy of the notice to the client and the nursing home. If the client resides at home with waiver services, send a copy of the notice to the client and the services coordinator. If the client resides in an Assisted Living Facility with waiver services, send a copy to the client, the facility, and the services coordinator.

1-008.03A – Timely Notice

This means that for a 31-day month, the Notice of Action is mailed no later than the 22<sup>nd</sup> day of the month; for a 30-day month, no later than the 21<sup>st</sup> of the month; for a 29-day month, no later than the 20<sup>th</sup> day of the month; and, for a 28-day month, no later than the 19<sup>th</sup> day in order for the action to be effective on the first of the following month.

1-008.03C, #4 – Situations Requiring Adequate Notice

Ten-day notice is not needed for clients entering or residing in a living situation with skilled nursing care, intermediate care, long-term hospitalization, or Assisted Living Waiver.

**1-009 Redetermination of Eligibility:**

1-009.01A – Redetermination of SSI Recipients

The worker is required to verify current SSI and health insurance status. The worker must review SDX to verify the client's address and receipt of SSI. If the client has previously declared private health insurance, the worker must verify the current status of coverage.

At the next annual review, the worker must complete a new application.

1-009.02 – Income Review

Any income that is calculated using a tax return should be recalculated when the next year's income tax return is filed.

**2-000 Eligibility Requirements:**

2-002 – Citizenship and Alien Status

If an individual has received or is receiving SSI or Medicare, s/he is considered to have been verified for citizenship or alien status.

See 469-000-301 for allowable documentation to verify citizenship or alien status.

See 469-000-309 for INS documents.

Whether it is an initial application or it is a redetermination, the applicant shall be given 45 days to produce citizenship documentation. An additional 30 days may be granted if the agency and applicant are having difficulty obtaining the documentation. As long as ongoing clients are cooperating, their benefits shall continue. Before an adverse action is taken on either applicants or recipients, the agency and client actions shall be documented and submitted to the Economic Assistance Unit for review.

2-002.01 – Verification of Alien Status

If the client has only immigration documents that do not contain the alien registration number, do not correspond to the data in the database, show signs of tampering, or that contain alien numbers that result in the instruction, "Institute Secondary Verification", the worker must forward a copy of the documentation along with an INS Transmittal Form G-845 and a signed release of information form to the U.S. Department of Justice, Citizenship and Immigration Services, 1717 Avenue H E; Omaha, NE 68110.

2-003.02 – Residence of Individuals Entering the State

Facilities include hospitals, nursing homes, or alternate care facilities.

2-009.02C3 – Assessment of Resources

Resources owned the month of entry may be used if no transfer or sale of resources occurred during the month.

The case file must contain the assessment documentation within 90 days.

2-009.03A2b – Motor Vehicles

The number of individuals on the title legally determines the percentage of ownership.

2-009.07A3a – Irrevocable Burial Trusts

Questions regarding burial funds contracted out of state should be sent on Form ASD-17 along with a copy of the contract to Central Office-Economic Assistance or an email sent to “DHHS Policy Questions” and the contract scanned.

2-009.07A5 – Long-Term Care Partnership Policy

Example 1: A client buys a Partnership LTC policy worth \$100,000.00. He later enters a nursing home, and the policy eventually pays out \$100,000.00. He can apply for Medicaid to cover his medical care now that his policy is exhausted. If approved for Medicaid, the client can protect up to \$100,000.00 in resources that would otherwise have had to be liquidated and spent on his long-term care costs before the application for Medicaid would have been approved.

Example 2: A client buys a Partnership LTC policy worth \$300,000.00. She only has \$200,000.00 in resources she wants to protect. Once the policy has paid out \$200,000.00, the client would be eligible for Medicaid.

2-009.07A5c – Reciprocity with Other States

Currently California, Connecticut, Florida, Idaho, Indiana, Nebraska, New York, North Dakota, South Dakota, and Virginia have LTC Partnership Programs.

2-009.07A6 – Trust, Guardianship/Conservatorship, and Annuity Funds

The worker must refer all trust, guardianships, conservatorships, and annuities to Central Office for review and advice before a final determination is made.

2-009.07A6b – Testamentary Trusts

If the trustee could distribute the funds; but, refuses to, the trust is not considered an available resource.

2-009.07A6c(1) – Annuities

If the client or spouse transferred ownership, see 469 NAC 2-009.10, ‘Deprivation of Resources’.

2-009.07A6c(2) – Annuity Transaction on or After February 8, 2006

Transaction is defined as purchase of an annuity changing the beneficiary or authorizing the commencement of any pay out period (annuitizing).

See 469 NAC 2-009.10B for long term care services that are subject to deprivation of resources provision.

Individuals receiving Medicaid are notified on the application and redetermination forms of the remainder beneficiary requirement. The annuity verification form notifies the company of the remainder beneficiary requirement.

2-009.07a6c(2)(b) – Deprivation of Resources for Annuity Transactions

Transaction is defined as purchase of an annuity changing the beneficiary or authorizing the commencement of the payout period (annuitizing).

See 469 NAC 2-009.10B for long term care services that are subject to deprivation of resources provisions.

Individuals receiving Medicaid are notified on the application and redetermination forms of the remainder beneficiary requirement. The annuity verification form notifies the company of the remainder beneficiary requirement.

2-009.07A6e, #1 – Guardianship/Conservatorships

At the time the case is approved, give the client and the guardian or conservator a notice of the 60-day time limit.

2-009.07A6e, #2 – Guardianship/Conservatorships

On the Notice, specify that the Department (DHHS General Counsel) must receive proper notice of any hearing to be held on the request for access to the funds.

2-009.07A6f(2)(a) – Payment Can Be Made from Trust

Payments are considered to be made to the individual when any amount from the trust, including an amount from the corpus, or income produced by the corpus, is paid directly to the individual or to someone acting on his/her behalf, e.g. a guardian or legal representative.

2-009.07A6f(2)(a)[1] – Exceptions

When a trust is established for a disabled client age 64 or younger, exclusion of the trust continues even after the client becomes age 65. However, such a trust cannot be added to or otherwise augmented after the client turns 65.

Current pay SSI individuals must provide documentation that SSI has approved the trust. The trust is not reviewed by Central Office until the individual goes off SSI current pay status.

2-009.07A6f(2)(b) – Payment cannot be made from Trust

The date of the transfers is considered to be the date the trust was established; or if later, the date on which payment to the individual was foreclosed.

2-009.07A6g – Hardship Procedures

To request an exception, forward an explanation of the circumstances to Central Office.

2-009.07B1c – Home Equity Value

This provision applies to the initial determination and redeterminations.

2-009.07B7 – Motor Vehicles

If the client is temporarily in a nursing home/assisted living facility, a motor vehicle that the client has used for medical transportation is excluded as a resource. This exclusion lasts only until it is apparent that the client cannot return to his/her home again (not to exceed six months).

2-009.07B11 – Essential Property

Filing a self-employment income tax return is not sufficient to meet these criteria. Leased/rented out land or land enrolled in an Agricultural Program do not meet this criteria.

2-009.10 – Deprivation of Resources

An exculpatory provision forgives or clears a debt. For example, a client lives in a nursing home and loaned money via a promissory note with a relative. The promissory note states that the obligation to pay any remaining balance ceases at the time of the client's death.

2-009.10B2b, #2 – Period of Ineligibility for SDP

If the individual is on Medicaid when the resource disposal is discovered, ineligibility begins the month following the month of discovery.

2-009.10B2c – Availability of Hardship Waiver Process

A hardship waiver will not be given if the individual does not meet the required Assisted Living with Waiver or Nursing Home level of care requirement.

Cooperation in attempting to recover transferred assets includes but is not limited to filing and pursuing any legal action to recover.

See 469-000-336 for procedures on hardship waivers.

2-009.10C – Exceptions to Deprivation Policy

To request an exception, use the ASD-17 or an email to "DHHS Policy Questions" to Central Office.

2-010.01B1c, #19 – Disregards of Self-Employment

The medical mileage allowance rate is based on the Federal IRS medical mileage rate.

2-010.01B2c(2) – Nursing Facility, Assisted Living Waiver, or Hospital Care

Client A is residing in a nursing facility. His son is paying the difference between the Medicaid payment and the private room rate. This will not be counted as income to the client. This is true only if Client A is in a nursing facility.

Client B is residing in a nursing facility. His family is paying for his room but is unable to pay for his medication and other medical expenses. Medicaid could pick up those expenses and the family's payment for the room will not count as income for the client. Any exempted payments for room costs must not be used to meet a Share of Cost.

2-010.01B4a – Accumulated SSI Payments

Example of calculating the state supplement grant when RSDI is used to determine the retroactive benefit and the SSI benefit is going to the state:

RSDI \$200 + SSI \$530 = \$730

AABD Standard \$438 + Shelter \$281 = \$719

\$200 - \$20 RSDI Disregard = \$180

\$730 - \$180 = \$550 state supplemental payment amount

The worker only enters the RSDI amount and no FBR in the budget.

If General Assistance or another source has paid shelter for the client, you must not use that shelter cost in the AABD budget. If the client actually paid/owes shelter cost for any month you are budgeting, then the shelter cost should be allowed.

2-010.1B6c(1) – SSI Referral

The client must sign Form IM-17 and the worker must send it to Social Security if a state supplemental payment is issued while the SSI determination is pending.

2-010.01C – Verification of Income

The worker must record all verification information and computations in the case record. The must document the following:

1. The source and type of income;
2. The date paid;
3. The period covered by the payment or benefit (a one-month period is the minimum allowable for verification); and,
4. The gross amount of payment (before any deductions).

For child support, district court records are used for verification.

2-010.01C1 – Prospective Budgeting

In arriving at the three-month average, the worker must:

1. List all earned and unearned income periods in the three most recent consecutive months. If there is a particularly high or low check, disregard it in the average;
2. Add gross income for the earned and unearned income for the three months; and
3. Divide by the number of pay periods to arrive at the average monthly amount. If the client receives semi-monthly or monthly income, do not convert the income.